

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAW SCHOOL ADMISSION	:	
COUNCIL, INC.	:	Civil Action No.: 15-cv-05219
	:	
Plaintiff,	:	
	:	
v.	:	
	:	Honorable Mark A. Kearney
MORLEY TATRO	:	
	:	
Defendant	:	

DEFENDANT’S AMENDED MOTION TO DISMISS PURSUANT TO FED. R. CIV. PROC.
12(b)(2) AND FED. R. CIV. PROC. 12(b)(3)

Defendant Morley Tatro (“Defendant” or “Tatro”), through undersigned counsel, hereby moves this Court to dismiss him from the present suit, based on a lack of personal jurisdiction and improper venue, pursuant to Fed. R. Civ. Proc. 12(b)(2) and Fed. R. Civ. Proc. 12(b)(3). A Memorandum in support of Defendant’s motion accompanies the motion.

SUMMARY OF ARGUMENT

Defendant, dba Cambridge LSAT, produces and sells Law School Admissions Test (“LSAT”) materials via the Internet. Defendant resides in and runs the business from California, and does not direct advertising in, solicit business from, or derive substantial revenue from Pennsylvania. Based on this lack of purposeful contact with Pennsylvania, this Court must consider whether it possesses personal jurisdiction over Defendant.

Upon examination of the facts, and particularly of Defendant’s lack of purposeful direction of activity at Pennsylvania, it is clear that this Court does not possess either general (Memo, p. 4) or specific (Memo, p. 4-6) jurisdiction over Defendant. Furthermore, adjudicating a claim against

Defendant in Pennsylvania would not comport with the Due Process Clause (Memo, p. 6-8).

The case should also be dismissed because venue is improper in the Eastern District of Pennsylvania. Defendant does not reside in Pennsylvania, and is not subject to personal jurisdiction in Pennsylvania. Furthermore, a substantial part of the events or omissions giving rise to the claim did not occur in Pennsylvania. (Memo, p. 9).

Finally, there is a prior pending motion in the United States District Court for the Central District of California that involves the same parties and the same issues. Upon information and belief, the outcome of this prior suit will substantially affect the present suit. Additionally, under the “first-filed rule,” the District Court for the Central District of California, the court in which the prior suit was filed, should decide the matter. (Memo, p. 9-10). Therefore, the present suit in the United States District Court for the District of Pennsylvania should be dismissed in favor of resolution of the matter by the California court.

CONCLUSION

Based on the foregoing, Defendant respectfully requests that the Court grant his Amended Motion to Dismiss.

Respectfully submitted,

/s/Eric J. Menhart*

Eric Menhart, Esq.

Lexero Law

316 F St. NE, Suite 101

Washington, DC 20002

Phone: 855-4-LEXERO (855-453-9376) Ext. 101

Fax: 855-4-LEXERO (855-453-9376)

/s/Julie D. Lathia

Julie D. Lathia, Esq.

The Law Offices of Julie D. Lathia, Esq.

212 West Gay Street

West Chester, PA 19380
jlathia@gmail.com
Phone: 717-940-4881

* Admitted *Pro Hac Vice*

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the date of this filing a copy of the foregoing was served via electronic case filing and all parties of record were served by that system.

/s/Julie D. Lathia
Julie D. Lathia